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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------------|
| 10/553,768 | 02/21/2006 | Vern McMillan | | 5002 |
| 60333 | 7590 | 12/26/2007 | | |
| EDWIN D. SCHINDLER FIVE HIRSCH AVENUE P.O. BOX 966 CORAM, NY 11727-0966 | | | EXAMINER LEGESSE, NINI F | |
| | | | ART UNIT 3711 | PAPER NUMBER |
| | | | MAIL DATE 12/26/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,768

Applicant(s)

MCMILLAN, VERN

Examiner

Nini F. Legesse

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/21/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expression "the surface" lacks antecedent basis.

Claim Objection

In claim 4 the word "elasticised" need to be changed to - - elasticized - -.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsieh (US Patent No6, 280,366)).

Hsieh discloses a platform (11), two coplanar members (2), a bias means that is an elasticized member (23). As shown in Fig. 3, the hinge element could be removed

and this indicates that one of element (11) is capable of being removed and it is also capable of being located transversely as claimed if it is desired. Regarding the intended use set forth in the preamble, the device is inherently capable of being used as a golf training device. The examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). The examiner notes that apparatus claims must be structurally distinguishable from the prior art. SEE MPEP 2114.

Claims 1, 2, 4, 5, 6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by List (US Patent Publication No 2002/0151416).

List discloses a platform (see Fig. 5), two coplanar members (32), a bias means that is an elasticized member (41). Regarding the intended use set forth in the preamble, the device is inherently capable of being used as a golf training device. The examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). The examiner notes that apparatus claims must be structurally distinguishable from the prior art. SEE MPEP 2114.

Claims 1, 2, 3, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Witteman et al. (US Patent No. 4,560,165).

Witteman discloses a platform (2), two coplanar members (4, 24), a bias means that is an elasticized member (52). element (40) is considered as a roller track assembly.

Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Riivald (US Patent No. 6,569,041).

Riivald discloses a platform (92), two coplanar members (74, 82), and a bias means (28) that is an elasticized member (see column 7, lines 12+). Element 74 and 82 are capable of being interchangeable. Regarding the intended use set forth in the preamble, the device is inherently capable of being used as a golf training device. The examiner is giving the broadest reasonable interpretation of the claims as set forth in MPEP 904.01(a). The examiner notes that apparatus claims must be structurally distinguishable from the prior art. SEE MPEP 2114.

Conclusion

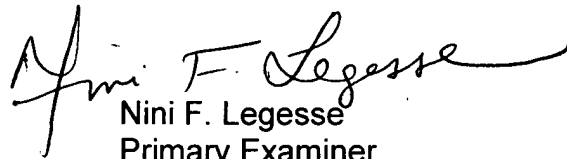
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nini F. Legesse whose telephone number is (571) 272-4412. The examiner can normally be reached on 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Nini F. Legesse
Primary Examiner
Art Unit 3711

12/15/07